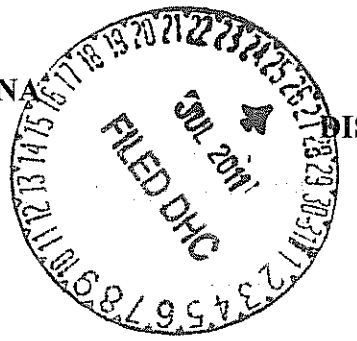

NORTH CAROLINA		**BEFORE THE DISCIPLINARY HEARING COMMISSION OF THE NORTH CAROLINA STATE BAR**
WAKE COUNTY		**11 DHC 16**
THE NORTH CARLINA STATE BAR,	:	
Plaintiff	:	
	:	**ANSWER**
versus	:	**And**
	:	**MOTION TO DISMISS**
ROBERT R. SCHOCH,	:	
Defendant	:	

ANSWERING plaintiff's complaint and moving to dismiss portions thereof, defendant says and alleges in regard to the allegations of the sequentially-numbered paragraphs of plaintiff's complaint as follows:

1. Paragraph 1, admitted.
2. Paragraph 2, admitted.
3. Paragraph 3, admitted.
4. Paragraph 4, admitted.
5. Paragraph 5, admitted.
6. Paragraph 6, admitted.
7. Paragraph 7, admitted, but, in addition, Schoch and Wannamaker agreed to protect defendant's existing plea bargain.
8. It is admitted that "amicus", inter alia, was one of the words employed to impart to the court Schoch's entry, purpose, posture and authority in the case.
9. Paragraph 9, admitted.
10. Paragraph 10, admitted.
11. Paragraph 11, admitted.
12. It is admitted that Schoch communicated to Green that if Green continued to act in a fashion that indicated that he had misrepresented to defendant's counsel (Schoch) his assurance that he would neither object to the continuance or withdraw the plea arrangement, that such conduct could be viewed as an

unethical misrepresentation to fellow counsel. The rest of paragraph 12 is denied.

13. It is admitted that both Green and Schoch made statements to the effect, respectively, that the plea bargain was withdrawn and the plea was accordingly withdrawn, but the record makes it clear that both statements were intentionally rhetorical sarcasms (the first having been initiated by Green) because there was no plea entered of record at the time and all must be constructively deemed to have understood that matter of unquestioned record. Immediately after making that statement, Schoch withdrew it, and Green himself stated in the record that no plea unmade could be withdrawn. The entirety of allegations in paragraph 13 constitute irrelevancy compounded by absurdity.
14. Paragraph 14 is admitted.
15. It is admitted that Schoch informed Dr. Herfkens of his authority to act as Leonard's counsel because he had authority to do so; defendant without any question had such authority as stated and admitted by plaintiff in paragraph 6.
16. Paragraph 16 is denied. Herfkens and Schoch had many discussions about Wannamaker and his unannounced insertion of himself into the matter of gathering from Herfkens the forensic evidence when he had agreed to leave the matter entirely and exclusively in the hands of his assisting counsel, Schoch.
17. Paragraph 17 includes a partial truth—i.e. that Herfkens opined that Leonard intentionally "under performed", but what data was thereby rendered "invalid" is another complex matter because Herfkens was referring to Leonard's underperforming on the intelligence portions of her evaluation, which had absolutely no bearing on the salient features of the psychological defensive issues being developed, i.e., Leonard's "dissociative personality disorder" which Herfkens to the very end never doubted existed in Leonard's case, which disorder would have afforded Leonard an exonerative defense.
18. Paragraph 18 is admitted, but the reason she declined to perform further evaluations was due to Wannamaker's instructing her in effect that he didn't want her to perform any further evaluations in the case.
19. Paragraph 19 is denied.
20. It is admitted that Wannamaker called and informed Herfkens he was Leonard's "chief" attorney, but the rest of the paragraph is denied on insufficient information on which to form a belief.
21. Paragraph 21 is, sadly for Wannamaker's client, Leonard, admitted.
22. Paragraph 22 is absolutely the truth, and it is the truth because Wannamaker assured Schoch—multiple times--he would not intrude into the process of gathering forensic evidence in the case.
23. It is admitted that Schoch interacted with Leonard and her family in precisely the way and to the extent Wanamaker and Schoch agreed he would.
24. It is admitted that Schoch, before becoming Wannamaker's adjunct or assistant counsel advised Leonard and her family that there was evidentiary preparation that needed doing that Wannamaker had not done; Wannamaker was thereafter so advised; thereafter Schoch interacted with Ms. Leonard and

her family only to the extent necessary to perform the services he and Wannamaker (and Leonard and her family) agreed he would.

25. It is admitted that Schoch, before becoming Wannamaker's adjunct or assistant counsel advised Leonard and her family that there was evidentiary preparation that needed doing that Wannamaker had not done; Wannamaker was thereafter so advised; thereafter Schoch interacted with Ms. Leonard and her family only to the extent necessary to perform the services he and Wannamaker (and Leonard and her family) agreed he would.
26. It is admitted that Schoch, before becoming Wannamaker's adjunct or assistant counsel advised Leonard and her family that there was evidentiary preparation that needed doing that Wannamaker had not done; Wannamaker was thereafter so advised; thereafter Schoch interacted with Ms. Leonard and her family only to the extent necessary to perform the services he and Wannamaker (and Leonard and her family) agreed he would.
27. Paragraph 27 is admitted.
28. In re the allegations of paragraph 28, it is admitted that Wannamaker stated that his relationship with the client was not good, but the reason it was not good was that Wannamaker had undermined the client's relationship with her forensic witness (Dr. Herfkens) to the point that the evidence needed for her defense had only been partially developed. Wannamaker's client and her family were distraught by Wannamaker's conduct. In addition, there is abundant evidence that Wannamaker considered himself inadequate and unprepared to argue for the continuance needed to complete the process of gathering the evidence needed to provide Cheri Leonard her potentially exonerating defense. Wannamaker had assigned that legal work to Schoch and Schoch was in the process of procuring the needed evidence, while Wannamaker was withholding the fact that he had intentionally and secretly undermined Schoch's efforts to procure the needed evidence from Dr. Herfkens.
29. Paragraph 29 is denied.
30. Paragraph 30 is admitted.
31. Paragraph 31 is admitted.
32. Paragraph 32 is admitted.
33. Paragraph 33 is admitted.
34. Paragraph 34 is admitted.
35. Paragraph 35 is admitted.
36. Paragraph 36 is admitted.
37. Paragraph 37 is admitted.
38. Paragraph 38 is denied insofar as it alleges Schoch offered to perform in the case in a manner proscribed by the Court's order, but the remainder of the paragraph is admitted.
39. Paragraph 39 is admitted with the exception that the Court and Schoch had a colloquy at the bench (off the record) where the Court was informed that Schoch was transacting business (unrelated to the criminal case at bar) with an "in-law" (and out-of-state) of defendant (Cheri Leonard) and that it was necessary to continue communications with said individual (Debra

Leatherman). The Court granted that exception with the admonition that Schoch not discuss the Leonard Case with said individual, to which Schoch agreed.

40. Paragraph 40 is admitted.
41. Paragraph 41 is admitted.
42. Paragraph 42 is admitted only to the extent that Schoch related to Leatherman the substance of the Court's order and added that he would inform her of things that were in the public domain (referring to newspaper or other sources of information, clearly excluding matters that would or could come from inside knowledge of the court proceedings). This allegation is a patent absurdity. Schoch was following the spirit and letter of the Court's order and thereafter abided by said order. The casual (for courtesy and consolation alone) mention of an intent to communicate and commiserate with Leonard's step mother (Leatherman) in the future was clearly NOT a violation of the court's order. The Court had instructed Schoch to remove himself from the case. Schoch complied. Schoch had nothing more to do with the case but later defend himself in the present disciplinary matter. The captious pettiness and absurdity of this allegation of unethical conduct are beyond belief and an insult to both defendant and his ethical tribunal.
43. Paragraph 43 is admitted; Schoch was duty-bound under the ethical rules to report Wannamaker's professional misconduct to the Court having jurisdiction over the matter.
44. Paragraph 44 is denied; Schoch's conduct was mandated under Title 27 of the NC Administrative Bar Code, Chapter 2, Rule 8.3(1).

THEREFORE, defendant denies that any of the allegations of the complaint as here answered, taken separately or together, indicate defendant has breached, contumaciously or otherwise, any of the Rules of professional conduct specified in the complaint, and accordingly defendant contends that there are no grounds for imposing disciplinary action in the present case.

FURTHERMORE, and reasserting and integrating hereinto the foregoing answers and allegations, and alleging and asserting further matters involving procedural issues and considerations of justice, fairness and equity affecting both the present case and the administration and interests of justice, including the future effect of the present case as legal precedent in disciplinary matters to come, defendant **CONTENDS and MOVES AS FOLLOWS:**

a. Inasmuch as there was no reference made concerning defendant's conduct in regard to District Attorney, Jordan Green, in either the Notice of Censure or tendered Acceptance of Censure filed and served upon defendant, defendant was never afforded the opportunity of accepting or refusing censure on grounds of any such conduct.
b. Asserting as grounds for disciplinary action (in the Complaint here answered) matters not included in the Notice of Censure or Acceptance of Censure constitutes unjust, unfair and arbitrary action on part of the complainant in the present action and further gives the appearance of constituting a reprisal for defendant's having refused to accept censure in the present case.

ACCORDINGLY, THE PREMISES CONSIDERED, defendant moves that all ethical allegations concerning defendant's alleged conduct in regard to Jordan Green be stricken from the complaint and removed from the matters presently "at issue" in the present disciplinary proceeding, said allegations including (but not restricted to) paragraphs 11 and 12 of the complaint.

WHEREFORE, defendant prays that:

(1) Defendant's disciplinary action be concluded with the finding and resolution that defendant is free from any and all ethical misconduct as charged in the complaint and
(2) That plaintiff be taxed with the administrative fees and costs, and
(3) For such other and further relief as is appropriate.

This the 24th day of July, 2011.

Robert R. Schoch, pro se
607 Overbrook Drive
High Point, NC 27262
(336) 887 3119
St. Bar. # 3884

CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing **ANSWER AND MOTION** was served on the parties hereto by mailing a copy of same to them to and through their attorneys of record at the following addresses by regular United States mail, postage prepaid, this the 24th day of July, 2011: Jennifer Porter, Attorney for the State Bar, P.O. Box 25908, Raleigh NC 27611, also via Fax: (919) 834-8156 and e-mail c/o Sonya Sells, paralegal sosells@ncbar.gov

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